



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,437	11/03/2003	Hsiu-Hsueh Wu	14021 B	5614

36672 7590 04/06/2004

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

EXAMINER

NELSON JR, MILTON

ART UNIT	PAPER NUMBER
----------	--------------

3636

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,437

Applicant(s)

WU, HSIU-HSUEH

Examiner

Milton Nelson, Jr.

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 2 of claim 7, it is unclear if "a dovetail groove" is intended to be the same feature as the previously set forth "dovetail groove". In line 3 of claim 7, it is unclear if "a dovetail" is intended to be the same feature as the previously set forth "dovetail". Claim 8 is indefinite since it depends from an indefinite claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

Art Unit: 3636

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(f) he did not himself invent the subject matter sought to be patented.

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gale (D201879). In the figures, note the lower block which functions as a pedestal for the upper block which includes integrally formed backrest, arms and seat members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gale (D201879) in view of Huse (6536844). Gale shows all claimed structural features of the instant invention. Gale lacks the making via blow molding.

Huse conventionally teaches making a seating assembly via blow molding. Note the last two paragraphs in column 3, and the 1 paragraph in column 4.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of Huse by making the assembly of Gale via blow molding. Such provides a conventional, and well know manner in which to make a hollow seating assembly. Blow molding provides a lightweight, durable assembly with sufficient strength to support a user.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gale (D201879) in view of Sheridan (4522446). Gale shows all claimed features of the instant invention with the exception of the seat including a plurality of enforcement ribs formed thereon (claim 3); and the backrest including a plurality of enforcement ribs formed thereon (claim 4).

Art Unit: 3636

Sheridan conventionally teaches providing a seat including a plurality of enforcement ribs formed thereon, and a backrest including a plurality of enforcement ribs formed thereon. Note Figure 3, between members 16.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Gale in view of the teachings of Sheridan by configuring the assembly of Gale such that his seat includes a plurality of enforcement ribs formed thereon (claim 3); and such that the backrest includes a plurality of enforcement ribs formed thereon (claim 4). Providing such ribs require forming the channels 16 into the surface of the seat and backrest. These channels enhance drainage of water should the assembly become wet. The resulting enforcement ribs provide a contoured surface for enhanced aesthetic appeal.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huse (6536844) in view of Gale (D201879). Huse shows all claimed features of the instant invention with the exception of the upper block including armrests. Note the hollow, blow molded upper block in Figure 1. Also note the lower block (20).

Gale conventionally teaches configuring the upper block member of a seating assembly as hollow, wherein the upper block is supported on a lower block. Gale also provides integrally formed arm members on the upper block. Note the figures.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Huse in view of the teachings of Gale by adding armrests for enhanced user comfort.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huse (6536844) in view of Gale (D201879), as applied to claim 1 above, and further in view of Chen (2002/0011747). Huse, as modified above, shows all claimed features of the instant invention with the exception of the lower block including a base for installment on the ground and a post installed on the base (claim 9); the post being telescopic (claim 10); and the lower block including a control device connected with the telescopic post for control over the extending and shrinking of the telescopic post (claim 11).

Chen conventionally teaches configuring a chair with a lower block (80) including a base (wheeled extensions) for installment on the ground and a post installed on the base (see Figure 1); the post being telescopic (as can be seen in Figure 1); and the lower block including a control device (note the device shown in Figure 4) connected with the telescopic post for control over the extending and shrinking of the telescopic post.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify Huse in view of the teachings of Chen by configuring the lower block to include a base with a post thereon for supporting the assembly on a surface (claim 9); wherein the post is telescopic for selective height adjustment by the user (claim 10); and wherein the lower block includes a control device connected with the telescopic post for control over the extending and shrinking of the telescopic post for enhanced ease of selective height adjustment by the user (claim 11).

Allowable Subject Matter

Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

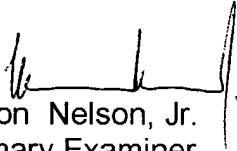
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A molded seating assembly is shown by each of Newhouse (5810438) and Wilcox (6089669). Separable members of a seating assembly are shown by each of Bezark (3704912), Benincasa (6454358) and Perkins (5350218). A hollow seating assembly is shown by each Karl et al (5496091) and Croom (5509720). Dovetail joints are shown by Keil (3410474). A backrest with upper and lower backrest structure is shown by each of Raftery (5988746) and Curtis (D166660).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

Art Unit: 3636

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
April 5, 2004